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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-seventh session

SUMMARY RECORD OF THE 1433rd MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 23 August 2000, at 10 a.m.

Chairman: Mr. SHERIFIS

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GE.00-44206 (E)

The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Draft concluding observations concerning the initial and second periodic reports of Uzbekistan (CERD/C/57/Misc.42/Rev.2, circulated in English only)

1. The CHAIRMAN said that, in the absence of the Country Rapporteur, Mr. Nobel, Mr. Rechetov would present the concluding observations for Uzbekistan.

2. Mr. RECHETOV said that the draft incorporated suggestions by some members; amendments received later would be introduced during the discussion.

Paragraphs 1 and 2

3. Paragraphs 1 and 2 were adopted, subject to minor editorial changes in paragraph 2.

Paragraph 3

4. Mr. BOSSUYT said that the reference to the International Bill of Human Rights was inappropriate. The International Bill of Human Rights included the Universal Declaration of Human Rights, which, because it was not a treaty but a resolution, could not be incorporated per se into the State's Constitution.

5. Mr. ABOUL-NASR pointed out that the term "International Bill of Human Rights" did not refer to any official collection of international instruments, but had resulted by chance from a decision of the Secretariat to present some fundamental human rights instruments under a single heading. The Committee would probably best be advised not to refer to it as if it were an official compilation of instruments.

6. After a discussion in which Mr. RECHETOV, Mr. DIACONU, Mr. de GOUTTES and Mr. BRYDE took part, the CHAIRMAN said he took it that the Committee wished to maintain the original wording of paragraph 3 since it stated that the "fundamental provisions" of the International Bill of Human Rights had been incorporated, but to avoid using the formulation "International Bill of Human Rights" in future concluding observations issued by the Committee.

7. Paragraph 3 was adopted.

Paragraphs 4 and 5

8. Paragraphs 4 and 5 were adopted.

Paragraph 6

9. Mr. RECHETOV suggested that the words "such as" should be replaced by "including".

10. Paragraph 6, as amended, was adopted.

Paragraph 7

11. Paragraph 7 was adopted.

Paragraph 8

12. Mr. BRYDE asked whether the wording of the paragraph was in keeping with the formulations used for the other States of the former Soviet Union.

13. Ms. MÖLLER (Office of the United Nations High Commissioner for Human Rights) said that the concluding observations issued by the Committee for Latvia and Kyrgyzstan had referred to the fact that those countries were "in the midst of large-scale economic and political transition".

14. Mr. ABOUL-NASR said he did not believe that the transition towards democracy was a factor impeding the implementation of the provisions of the Convention. Perhaps a reference to that transition should be placed in the introduction instead, as had been done in the case of many other States. That being said, it was not up to the Committee to comment on the economic system in a State party, and he would be in favour of deleting the reference to the transition to a market economy altogether.

15. Mr. SHAHI said that the statement was too general. The transition to democracy was evidently no great impediment to the application of human rights instruments. In under nine years, Uzbekistan had acceded to the six main international human rights treaties, while other States had acceded to just two or three after decades in which they had been consolidating their democracies. The paragraph would be rather meaningless unless it cited concrete impediments to the consolidation of democracy.

16. The CHAIRMAN suggested that paragraph 8 should be deleted.

17. Paragraph 8 was deleted.

Paragraph 9

18. The CHAIRMAN, noting that the reference to "some provisions" at the end of the first sentence was rather vague, suggested that the first sentence should be deleted.

19. Paragraph 9, as amended, was adopted.

Paragraph 10

20. Mr. ABOUL-NASR said that the paragraph was excessively hypothetical. It was not the Committee's place to question what would happen if a conflict of interpretation were to arise between the Convention and the State's Constitution or other domestic legislation. He moved that the paragraph should be deleted.

21. Mr. DIACONU recalled that the delegation had indicated that the hierarchy of laws placed constitutional legislation first, and gave a secondary rank to international conventions. He had therefore raised the question of the relationship between the two categories of laws, but the reply of the delegation had not been very clear. The State party should confront that issue and clarify the situation to the Committee.

22. The CHAIRMAN suggested that the first sentence should be deleted and that the paragraph should be amended to read: "The Committee requests the State party to include in its next periodic report additional information concerning the status of the Convention in relation to national laws, with a view to providing the Committee with a better understanding in this regard."

23. Paragraph 10, as amended, was adopted.

Paragraph 11

24. Paragraph 11 was adopted.

Paragraph 12

25. Mr. ABOUL-NASR, noting that the State party had in a relatively short time established a large number of institutions to protect human rights and combat racial discrimination, said he thought that it would be excessive for the Committee to recommend the establishment of still more mechanisms.

26. Mr. RECHETOV proposed that the words "the establishment of measures for" should be deleted from the paragraph.

27. The CHAIRMAN suggested that the two sentences should be merged into one, so that the paragraph would read: "The Committee, noting that some isolated cases of inter-ethnic conflict have been reported, recommends that the State party pay particular attention to the effective prevention and monitoring of possible areas of ethnic conflict."

28. Paragraph 12, as amended, was adopted.

Paragraph 13

29. Mr. DIACONU proposed that, in the second sentence, the words "whether the State party has implemented all the provisions in accordance with" should be replaced by "whether the legislation of the State party fully conforms to the provisions of".

30. Paragraph 13, as amended, was adopted.

Paragraph 14

31. Mr. ABOUL-NASR said that, in the second sentence, it was unclear whether the Committee was requesting definitions or implementation of legislation.

32. Mr. RECHETOV said that the Committee was asking the State party to enact legislation dealing with asylum.

33. The CHAIRMAN explained that the Committee was also expressing its concern at the lack of such legislation.

34. Mr. BOSSUYT suggested that there would be no confusion if, in the fifth line, the words "defining the basis for" were replaced by "on".

35. Mr. RECHETOV further suggested that, in the third line, the word "concerning" should be replaced by "in respect of".

36. Paragraph 14, as amended, was adopted.

Paragraph 15

37. The CHAIRMAN asked whether it was really necessary to use expressions such as "expresses its concern" or "welcomes" repeatedly. Such expressions should be limited to instances where they were truly warranted by the situation in the State party.

38. Mr. RECHETOV agreed and suggested that in the first line the words "expresses its concern" should be replaced by "notes". Recalling also that Uzbekistan was a relatively new country and observing that the Committee should not be too unreasonable in its requests, suggested the deletion of the last sentence.

39. Mr. BOSSUYT said that, in the first sentence, the words "in the private sphere" were not sufficiently clear and should be replaced with "by private persons".

40. Mr. ABOUL-NASR questioned the need to make a distinction between public and private persons.

41. Mr. BOSSUYT said that the current legislation simply prohibited racial discrimination by the authorities and there was therefore a need to take measures to prohibit racial discrimination by individuals acting in their personal capacity.

42. Mr. RECHETOV supported Mr. Aboul-Nasr and said that the Convention prohibited racial discrimination in all areas, whether public or private.

43. Ms. ZOU Deci said that the Committee was perhaps asking too much of the State party, which already seemed to have made significant progress in its short existence. She therefore suggested deleting the first sentence as well as the last.

44. Paragraph 15, as amended, was adopted.

Paragraph 16

45. Paragraph 16 was adopted.

Paragraph 17

46. Mr. SHAHI asked whether the word "welcomes" in the first line should not be replaced by "notes", in keeping with the Committee's general practice of not using "welcomes" in the section dealing with concerns and recommendations.

47. The CHAIRMAN explained that, in the case of Uzbekistan, the Committee had made an exception to its usual practice in order to recognize the progress made.

48. Paragraph 17 was adopted.

Paragraphs 18 to 21

49. Paragraphs 18 to 21 were adopted.

50. The draft concluding observations concerning the initial and second periodic reports of Uzbekistan, as a whole, as amended, were adopted.

Draft concluding observations concerning the thirteenth to fifteenth periodic reports of the Holy See (continued) (CERD/C/55/Misc.41/Rev.2, future CERD/C/.../Add..., circulated in English only)

51. The CHAIRMAN invited the Committee to resume its consideration of the draft concluding observations on the thirteenth to fifteenth periodic reports of the Holy See (CERD/C/55/Misc.41/Rev.2)

Revised paragraphs 9 to 11

52. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) informed Committee members that they had before them, in manuscript form, the revised paragraphs 9, 10 and 11 incorporating changes suggested by members and replacing paragraphs 9 to 12 of the original draft.

Revised paragraph 9

53. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) drew attention to the revised paragraph 9, which read: "The Committee recommends that the State party implement fully the Convention and invites it to provide, in its next periodic report, information on the relation of article 4 to canon law and penal law in the State of Vatican City."

54. Mr. ABOUL-NASR asked, for example, how the State party could be expected to implement article 5 (d) (iv) of the Convention involving marriage and the choice of spouse.

55. Mr. DIACONU suggested that, taking into account the rather special situation of the Holy See, the word "fully" should be replaced by the words "as appropriate".

56. Revised paragraph 9, as amended, was adopted.

Revised paragraph 10

57. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) drew attention to the revised paragraph 10, which read: "The Committee notes the clarification outlined in paragraph 106 of the report, concerning the involvement of ecclesiastics, against the precepts of evangelical laws, in the genocide in Rwanda. The State party should in no way hamper the juridical procedures against those persons found to have been involved in the Rwanda genocide." He suggested, however, that the words "in no way hamper" should be replaced by "cooperate fully with".

58. The CHAIRMAN expressed doubts about the clarity of the wording "cooperate fully with judicial procedures against ... ".

59. Mr. BANTON suggested that the word "evangelical" might be replaced by "ecclesiastical" or "canonical".

60. Mr. ABOUL-NASR stressed that, whatever the final wording, the meaning should be easily understandable to all.

61. Mr. BRYDE suggested deleting the words "against the precepts of evangelical laws", since it was not really a question of laws per se, but of acts which violated the basic tenets of the Church.

62. Ms. McDOUGALL agreed with the deletion suggested by Mr. Bryde. In addition, she felt that the last sentence as written prejudged the outcome of procedures against those who had been accused; she proposed that it should be replaced by: "The State party should cooperate fully with the juridical procedures related to the Rwanda genocide"; that would stress the need to cooperate with all proceedings relating to the International Criminal Tribunal for Rwanda as well as the Arusha proceedings.

63. The CHAIRMAN asked whether there should not be some mention of those persons accused in relation to those occurrences.

64. Ms. McDOUGALL stressed that there needed to be an investigation before anyone was accused and it was important for the State party to cooperate during the investigation as well as during trial.

65. Mr. de GOUTTES said he did not agree with the deletion suggested by Mr. Bryde, because during its oral presentation the delegation had stressed that any member of the clergy who might have been involved in the genocide had clearly violated the precepts of Church teaching. He therefore suggested replacing the words "evangelical laws" by "the Catholic Church". In addition, the second sentence should read "The State party should cooperate fully with the judicial authorities for the prosecution of persons involved in the genocide in Rwanda".

66. Mr. ABOUL-NASR asked for specific examples of how the Church could cooperate.

67. Mr. de GOUTTES said that it would be expected to cooperate with both the national judicial authorities in Rwanda and the International Criminal Tribunal for Rwanda. Furthermore, in the several specific cases of priests implicated in the genocide - one in France, for instance, and two in Belgium - the Church should be ready to furnish all necessary information, or at least not conceal any information about any such clergy.

68. Mr. SHAHI, supporting Mr. de Gouttes' amendment to the first sentence of the paragraph, said that if, indeed, investigation procedures were different from judicial proceedings, the second sentence should specify both, just as it should make it clear that the proceedings of two different judicial bodies were involved.

69. Ms. McDOUGALL proposed that the second sentence should be redrafted to read: "The State party should cooperate fully with the national and international authorities in connection with prosecutions relating to the Rwanda genocide." She had deliberately left out the word "judicial" before the word "authorities" because a broader term was wanted that included investigative authorities.

70. Mr. BOSSUYT, supported by the CHAIRMAN, said that the word "judicial" was necessary.

71. Mr. de GOUTTES, said that he supported Ms. McDougall's amendment otherwise, but that it would be preferable to include the word "judicial" because it carried with it concepts of guarantees, rules of protection and rights of defence that were important.

72. It was so decided.

73. Revised paragraph 10, as amended, was adopted.

Revised paragraph 11

74. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) drew attention to the text of revised paragraph 11: "While welcoming the extensive statistical information provided in the State party report concerning the population and administrative structure of the Roman Catholic Church as well as Catholic educational establishments globally, the Committee invites the State party to provide data available on the administrative structure of the State of Vatican City." He pointed out that a second sentence asking for additional information on the State party's policies to ensure diversity within the Church, even at the highest levels, had been deleted at the suggestion of some members.

75. Mr. BRYDE proposed replacing the word "population" with "membership", because the State party had provided figures about Catholics worldwide, not about the population of a State, and about the administrative structure of the Church, not just of Vatican City. On the other hand, in the main clause, he would propose inserting the words "the inhabitants and" before the phrase

"the administrative structure of the State of Vatican City" because, although a great deal of information had been provided about the Church itself, not much had been said about Vatican City.

76. It was so decided.

77. Ms. JANUARY-BARDILL said that it was not clear to her if, by asking for information on administrative structure, the Committee was simply asking for figures or if it wanted the Holy See to supply an organizational chart. That was something the Committee did not ask of other States parties, and there was no reason the Vatican should do so. She also asked what the rationale had been for deleting the originally included and indeed legitimate request for information on diversity within the Church.

78. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) said that the aim had been to focus on the most important issues, taking account of the special nature of the Holy See as a State party; and that it had been felt that the question of diversity, in the context of paragraph 11, was outside the Committee's competence.

79. Mr. BRYDE said that he thought the question of diversity had been properly deleted, at least from paragraph 11. Moreover, it was unclear if diversity referred to racial and ethnic diversity among the clergy or to Church policies that had been discussed earlier in the text.

80. Ms. McDOUGALL said that she supported the inclusion of a sentence dealing with diversity in the Church, either in paragraph 11 or elsewhere. The Holy See had come before the Committee as a State party, and in most respects the Committee should request of it the information usually asked of States parties. It was not inappropriate inquire into policies intended to create diversity within the Vatican City structure.

81. The CHAIRMAN observed that it had already been noted that the Holy See was dealt with as a State party, but only mutatis mutandis, since some provisions of the Convention did not apply.

82. Mr. ABOUL-NASR asked for specific examples of what was meant by diversity at the highest levels of the Church.

83. Ms. JANUARY-BARDILL said that the Committee would be interested in learning if the structure of the Church could be made to reflect the diversity with which it operated in so many different countries.

84. Ms. McDOUGALL said that she herself would want to know, for example, how many of the Cardinals in decision-making positions in Vatican City came from Africa and Latin America. Article 2 of the Convention, after all, spoke of a positive obligation to encourage integrationist multiracial organizations and other means of eliminating barriers between races. To put questions to the Holy See about diversity in its upper echelons was comparable to asking such questions about the legislative and executive branches in other States parties.

85. Mr. BRYDE said that the issue was complicated because the Vatican and the Catholic Church as such formed a very complicated structure. Vatican City comprised a few Swiss Guards, some domestic staff and some, but only some, resident Cardinals. The structure of the Church was such that not all the decision makers lived in Vatican City. In order to phrase the question so as to obtain the information that Ms. McDougall sought, perhaps the reference should be to the Catholic Church, not to the Vatican.

86. Ms. McDOUGALL said that she saw the problem, and would instead suggest the "governance structure" of the Church, since the Vatican itself did not have many inhabitants.

87. The CHAIRMAN, wondering if there was a ceiling on the number of inhabitants about which questions could be asked, said that he would take it, if he heard no objection, that the Committee wished to adopt revised paragraph 11 as it stood, with only the two amendments it had already approved.

88. Revised paragraph 11, as amended, was adopted.

Paragraph 6 (continued)

89. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) requested confirmation that the phrase "inter-religious dialogue" in the first sentence of paragraph 6 had been replaced by "a dialogue between and within religions" in the adopted text.

90. The CHAIRMAN confirmed that amendment.

Paragraph 8 (continued)

91. Following a request by Mr. VALENCIA RODRIGUEZ (Country Rapporteur), the CHAIRMAN said he took it that the Committee agreed to reopen the discussion on paragraph 8, which had been adopted at the previous meeting.

92. It was so agreed.

93. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) proposed, in the light of Ms. Zou's comments the previous day about the absence of Catholic schools in China, the deletion of the word "universal" before "education" in the first sentence.

94. It was so decided.

95. Ms. McDOUGALL said that she would like to return to the last sentence of the paragraph, for while the Catholic Church's efforts to promote literacy could indeed be welcomed, she questioned whether the Catholic Church did in fact promote the cultural and ethnic integrity of children from rural and economically underprivileged populations in various parts of the world. That had not been documented anywhere in the State party's report, and she proposed the deletion of that part of the last sentence.

96. Mr. DIACONU observed that only the cultural and ethnic integrity of children specifically concerned the Committee, not children as such or education as such, which was all that would be left in paragraph 8 if Ms. McDougall's amendment were adopted.

97. The CHAIRMAN, speaking in his personal capacity, said that he agreed that the reference to underprivileged children should be retained.

98. Ms. McDOUGALL proposed redrafting the final sentence to read: "The efforts to promote literacy among children from rural and economically underprivileged populations in various parts of the world are also welcomed."

99. Mr. ABOUL-NASR proposed simply deleting the last sentence, because the notion of the promotion of literacy was already included in the earlier part of the paragraph.

100. It was so decided.

101. Paragraph 8, as further amended, was adopted.

102. The draft concluding observations concerning the thirteenth to fifteenth periodic reports of the Holy See, as a whole, as amended, were adopted.

THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION; WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE (agenda item 9) (continued) (CERD/C/57/Misc.25/Rev.7)

103. The CHAIRMAN drew the Committee's attention to the revised draft of the document produced by the convenors of the three working groups - Mr. Valencia Rodriguez, Mr. Rechetov, and Mr. Fall - on the Committee's contribution to the World Conference on Racism, Racial Discrimination, Xenophobia and Related Intolerance (CERD/C/57/Misc.25/Rev.7).

104. Mr. VALENCIA RODRIGUEZ, introducing the document on behalf of the three convenors, said that it had been revised, and somewhat reduced in length, in the light of the suggestions received. Where both deletions and amendments had been proposed with regard to the same text, the amendments had been retained rather than the deletions, pending the Committee's further discussion of the text.

105. The CHAIRMAN said he thought a paragraph-by-paragraph approach would be premature and suggested that consideration of the document should be deferred until the next meeting to give members time to peruse it.

106. Mr. ABOUL-NASR said that it would be very difficult to read and analyse a 40-page document in so short a time. The Committee should not act in haste; it was a very important document, which could be considered in depth pending the January 2001 session, when it could be formally adopted. By way of preliminary comment on the substance, he said that the conclusions were not commensurate with the Committee's reputation.

107. Mr. RECHETOV said that, although he too had previously been in favour of deferring consideration, he now believed that a more realistic approach would be for the document to be completed and published at the earliest possible opportunity. It would take a very long time to produce a perfect document, and a paragraph-by-paragraph approach was hardly practicable at the current session, as it would take at least two or three days. Given the time constraints, he would suggest a preliminary discussion so that all members with concrete proposals would have an opportunity to present them.

108. Mr. SHAHI said that the text, though commendable, needed to be revised so as to reflect all members' concerns and, particularly, to be reduced in length so as to ensure that it received adequate consideration at the World Conference. He wondered whether the time remaining at the current session would allow all members to express their views.

109. Ms. McDOUGALL agreed that all Committee members should be given the opportunity to read and comment on the document. However, once those comments had been compiled, the document would still need to be refined and made more concise. A solution might be for all Committee members to read the document in detail, at least overnight, and submit written comments and suggestions which would then go to a principal rapporteur, who would be responsible for producing a revised, well-drafted version reflecting the consensus view. That document could subsequently be considered at the Committee's January 2001 session. What was most important was to use the time remaining during the current session and up to January 2001 in the most effective manner possible.

110. Mr. RECHETOV expressed doubts about the practical results of that proposal. Some members had already submitted written proposals on the document. Some might follow suit while others might prefer to postpone consideration until January 2001, when the whole process would have to be resumed. He was not against postponement, but considered that, in order to gain time, the best working method was for all Committee members to read the document and for those wishing to do so to make proposals at the current session.

111. Ms. JANUARY-BARDILL agreed that the Committee as a whole should consider the document in its current form in order to improve its quality. Postponement would not be fair to those who had put so much effort into producing the document. Furthermore, it was in the Committee's interest to consider certain issues, for example that of victims, at the current session, so as to be clear about how to deal with those issues and establish priorities for discussion at the World Conference.

112. The CHAIRMAN said that Committee members had expressed a range of views on how to approach the document under consideration, although all were agreed that any result should do justice to the World Conference and the Committee itself. He suggested that, if time permitted, an opportunity should be given to all members to express their opinions on the following day, as had been proposed.

113. The scope of the Committee's contribution to the World Conference had already been defined. What remained to be determined was whether the Committee's request to hold its August 2001 session in South Africa would be granted. If it were unable to meet in South Africa, it would as usual hold its session in Geneva and send a delegation, preferably a

sizeable one, to participate in the work of the World Conference. Irrespective of the final outcome on the matter, however, the Committee must draw up a specific plan of action for its participation in the World Conference. The time had come for the Committee to think carefully about its contribution, to make practical suggestions to that effect and to adopt a common stance.

114. Mr. ABOUL-NASR said that, before a common stance could be adopted regarding the Committee's contribution, the scope of its permissible activities should be clarified: for instance, would members be able to participate in the working groups set up or to express the Committee's opinions in the discussions held?

115. Echoing the words of the Chairman, Ms. McDOUGALL said that the Committee could do everything but vote at the World Conference. The Contact Group had already played a very active and influential role in the Preparatory Committee meetings, for instance in debating which items would be included in the Conference agenda. It could make a substantial contribution to the World Conference, but it was the task of the Committee to carve out its own precise role.

The meeting rose at 1.05 p.m.